



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 02/06/04, by Michael J. Madigan

SYNOPSIS AS INTRODUCED:

20 ILCS 2405/3

from Ch. 23, par. 3434

Amends the Disabled Persons Rehabilitation Act. Makes a technical change in a Section concerning the powers and duties of the Department of Human Services.

LRB093 17054 DRJ 42718 b

1 AN ACT concerning disabled persons.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Disabled Persons Rehabilitation Act is
5 amended by changing Section 3 as follows:

6 (20 ILCS 2405/3) (from Ch. 23, par. 3434)

7 Sec. 3. Powers and duties. The Department shall have the
8 following powers and duties ~~enumerated herein~~:

9 (a) To co-operate with the federal government in the
10 administration of the provisions of the federal Rehabilitation
11 Act of 1973, as amended, of the Workforce Investment Act of
12 1998, and of the federal Social Security Act to the extent and
13 in the manner provided in these Acts.

14 (b) To prescribe and supervise such courses of vocational
15 training and provide such other services as may be necessary
16 for the habilitation and rehabilitation of persons with one or
17 more disabilities, including the administrative activities
18 under subsection (e) of this Section, and to co-operate with
19 State and local school authorities and other recognized
20 agencies engaged in habilitation, rehabilitation and
21 comprehensive rehabilitation services; and to cooperate with
22 the Department of Children and Family Services regarding the
23 care and education of children with one or more disabilities.

24 (c) (Blank).

25 (d) To report in writing, to the Governor, annually on or
26 before the first day of December, and at such other times and
27 in such manner and upon such subjects as the Governor may
28 require. The annual report shall contain (1) a statement of the
29 existing condition of comprehensive rehabilitation services,
30 habilitation and rehabilitation in the State; (2) a statement
31 of suggestions and recommendations with reference to the
32 development of comprehensive rehabilitation services,

1 habilitation and rehabilitation in the State; and (3) an
2 itemized statement of the amounts of money received from
3 federal, State and other sources, and of the objects and
4 purposes to which the respective items of these several amounts
5 have been devoted.

6 (e) (Blank).

7 (f) To establish a program of services to prevent
8 unnecessary institutionalization of persons with Alzheimer's
9 disease and related disorders or persons in need of long term
10 care who are established as blind or disabled as defined by the
11 Social Security Act, thereby enabling them to remain in their
12 own homes or other living arrangements. Such preventive
13 services may include, but are not limited to, any or all of the
14 following:

- 15 (1) home health services;
- 16 (2) home nursing services;
- 17 (3) homemaker services;
- 18 (4) chore and housekeeping services;
- 19 (5) day care services;
- 20 (6) home-delivered meals;
- 21 (7) education in self-care;
- 22 (8) personal care services;
- 23 (9) adult day health services;
- 24 (10) habilitation services;
- 25 (11) respite care; or
- 26 (12) other nonmedical social services that may enable
27 the person to become self-supporting.

28 The Department shall establish eligibility standards for
29 such services taking into consideration the unique economic and
30 social needs of the population for whom they are to be
31 provided. Such eligibility standards may be based on the
32 recipient's ability to pay for services; provided, however,
33 that any portion of a person's income that is equal to or less
34 than the "protected income" level shall not be considered by
35 the Department in determining eligibility. The "protected
36 income" level shall be determined by the Department, shall

1 never be less than the federal poverty standard, and shall be
2 adjusted each year to reflect changes in the Consumer Price
3 Index For All Urban Consumers as determined by the United
4 States Department of Labor. Additionally, in determining the
5 amount and nature of services for which a person may qualify,
6 consideration shall not be given to the value of cash, property
7 or other assets held in the name of the person's spouse
8 pursuant to a written agreement dividing marital property into
9 equal but separate shares or pursuant to a transfer of the
10 person's interest in a home to his spouse, provided that the
11 spouse's share of the marital property is not made available to
12 the person seeking such services.

13 The services shall be provided to eligible persons to
14 prevent unnecessary or premature institutionalization, to the
15 extent that the cost of the services, together with the other
16 personal maintenance expenses of the persons, are reasonably
17 related to the standards established for care in a group
18 facility appropriate to their condition. These
19 non-institutional services, pilot projects or experimental
20 facilities may be provided as part of or in addition to those
21 authorized by federal law or those funded and administered by
22 the Illinois Department on Aging.

23 Personal care attendants shall be paid:

24 (i) A \$5 per hour minimum rate beginning July 1, 1995.

25 (ii) A \$5.30 per hour minimum rate beginning July 1,
26 1997.

27 (iii) A \$5.40 per hour minimum rate beginning July 1,
28 1998.

29 Solely for the purposes of coverage under the Illinois
30 Public Labor Relations Act (5 ILCS 315/), personal care
31 attendants and personal assistants providing services under
32 the Department's Home Services Program shall be considered to
33 be public employees and the State of Illinois shall be
34 considered to be their employer as of the effective date of
35 this amendatory Act of the 93rd General Assembly, but not
36 before. The State shall engage in collective bargaining with an

1 exclusive representative of personal care attendants and
2 personal assistants working under the Home Services Program
3 concerning their terms and conditions of employment that are
4 within the State's control. Nothing in this paragraph shall be
5 understood to limit the right of the persons receiving services
6 defined in this Section to hire and fire personal care
7 attendants and personal assistants or supervise them within the
8 limitations set by the Home Services Program. The State shall
9 not be considered to be the employer of personal care
10 attendants and personal assistants for any purposes not
11 specifically provided in this amendatory Act of the 93rd
12 General Assembly, including but not limited to, purposes of
13 vicarious liability in tort and purposes of statutory
14 retirement or health insurance benefits. Personal care
15 attendants and personal assistants shall not be covered by the
16 State Employees Group Insurance Act of 1971 (5 ILCS 375/).

17 The Department shall execute, relative to the nursing home
18 prescreening project, as authorized by Section 4.03 of the
19 Illinois Act on the Aging, written inter-agency agreements with
20 the Department on Aging and the Department of Public Aid, to
21 effect the following: (i) intake procedures and common
22 eligibility criteria for those persons who are receiving
23 non-institutional services; and (ii) the establishment and
24 development of non-institutional services in areas of the State
25 where they are not currently available or are undeveloped. On
26 and after July 1, 1996, all nursing home prescreenings for
27 individuals 18 through 59 years of age shall be conducted by
28 the Department.

29 The Department is authorized to establish a system of
30 recipient cost-sharing for services provided under this
31 Section. The cost-sharing shall be based upon the recipient's
32 ability to pay for services, but in no case shall the
33 recipient's share exceed the actual cost of the services
34 provided. Protected income shall not be considered by the
35 Department in its determination of the recipient's ability to
36 pay a share of the cost of services. The level of cost-sharing

1 shall be adjusted each year to reflect changes in the
2 "protected income" level. The Department shall deduct from the
3 recipient's share of the cost of services any money expended by
4 the recipient for disability-related expenses.

5 The Department, or the Department's authorized
6 representative, shall recover the amount of moneys expended for
7 services provided to or in behalf of a person under this
8 Section by a claim against the person's estate or against the
9 estate of the person's surviving spouse, but no recovery may be
10 had until after the death of the surviving spouse, if any, and
11 then only at such time when there is no surviving child who is
12 under age 21, blind, or permanently and totally disabled. This
13 paragraph, however, shall not bar recovery, at the death of the
14 person, of moneys for services provided to the person or in
15 behalf of the person under this Section to which the person was
16 not entitled; provided that such recovery shall not be enforced
17 against any real estate while it is occupied as a homestead by
18 the surviving spouse or other dependent, if no claims by other
19 creditors have been filed against the estate, or, if such
20 claims have been filed, they remain dormant for failure of
21 prosecution or failure of the claimant to compel administration
22 of the estate for the purpose of payment. This paragraph shall
23 not bar recovery from the estate of a spouse, under Sections
24 1915 and 1924 of the Social Security Act and Section 5-4 of the
25 Illinois Public Aid Code, who precedes a person receiving
26 services under this Section in death. All moneys for services
27 paid to or in behalf of the person under this Section shall be
28 claimed for recovery from the deceased spouse's estate.
29 "Homestead", as used in this paragraph, means the dwelling
30 house and contiguous real estate occupied by a surviving spouse
31 or relative, as defined by the rules and regulations of the
32 Illinois Department of Public Aid, regardless of the value of
33 the property.

34 The Department and the Department on Aging shall cooperate
35 in the development and submission of an annual report on
36 programs and services provided under this Section. Such joint

1 report shall be filed with the Governor and the General
2 Assembly on or before March 30 each year.

3 The requirement for reporting to the General Assembly shall
4 be satisfied by filing copies of the report with the Speaker,
5 the Minority Leader and the Clerk of the House of
6 Representatives and the President, the Minority Leader and the
7 Secretary of the Senate and the Legislative Research Unit, as
8 required by Section 3.1 of the General Assembly Organization
9 Act, and filing additional copies with the State Government
10 Report Distribution Center for the General Assembly as required
11 under paragraph (t) of Section 7 of the State Library Act.

12 (g) To establish such subdivisions of the Department as
13 shall be desirable and assign to the various subdivisions the
14 responsibilities and duties placed upon the Department by law.

15 (h) To cooperate and enter into any necessary agreements
16 with the Department of Employment Security for the provision of
17 job placement and job referral services to clients of the
18 Department, including job service registration of such clients
19 with Illinois Employment Security offices and making job
20 listings maintained by the Department of Employment Security
21 available to such clients.

22 (i) To possess all powers reasonable and necessary for the
23 exercise and administration of the powers, duties and
24 responsibilities of the Department which are provided for by
25 law.

26 (j) To establish a procedure whereby new providers of
27 personal care attendant services shall submit vouchers to the
28 State for payment two times during their first month of
29 employment and one time per month thereafter. In no case shall
30 the Department pay personal care attendants an hourly wage that
31 is less than the federal minimum wage.

32 (k) To provide adequate notice to providers of chore and
33 housekeeping services informing them that they are entitled to
34 an interest payment on bills which are not promptly paid
35 pursuant to Section 3 of the State Prompt Payment Act.

36 (l) To establish, operate and maintain a Statewide Housing

1 Clearinghouse of information on available, government
2 subsidized housing accessible to disabled persons and
3 available privately owned housing accessible to disabled
4 persons. The information shall include but not be limited to
5 the location, rental requirements, access features and
6 proximity to public transportation of available housing. The
7 Clearinghouse shall consist of at least a computerized database
8 for the storage and retrieval of information and a separate or
9 shared toll free telephone number for use by those seeking
10 information from the Clearinghouse. Department offices and
11 personnel throughout the State shall also assist in the
12 operation of the Statewide Housing Clearinghouse. Cooperation
13 with local, State and federal housing managers shall be sought
14 and extended in order to frequently and promptly update the
15 Clearinghouse's information.

16 (m) To assure that the names and case records of persons
17 who received or are receiving services from the Department,
18 including persons receiving vocational rehabilitation, home
19 services, or other services, and those attending one of the
20 Department's schools or other supervised facility shall be
21 confidential and not be open to the general public. Those case
22 records and reports or the information contained in those
23 records and reports shall be disclosed by the Director only to
24 proper law enforcement officials, individuals authorized by a
25 court, the General Assembly or any committee or commission of
26 the General Assembly, and other persons and for reasons as the
27 Director designates by rule. Disclosure by the Director may be
28 only in accordance with other applicable law.

29 (Source: P.A. 92-84, eff. 7-1-02; 93-204, eff. 7-16-03.)